

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0869-05
Bill No.: SCS for HCS for HB 470 and 429
Subject: Entertainment, Sports and Amusements; Taxation and Revenue - Income;
Revenue Dept.
Type: Original
Date: May 9, 2011

Bill Summary: Would change various provisions related to the nonresident athletes and entertainers tax program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** stated that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

SOS officials also stated that reducing the libraries' share of the Athletes and Entertainers Tax from 10% to 5% would reduce the amount available to be appropriated to public libraries by as much as \$1.5 million per year.

Officials from the **Office of the State Treasurer** assume this proposal would have no fiscal impact on their organization.

Officials from the **Department of Revenue (DOR)** assume this proposal would have no fiscal impact on their organization. DOR officials also stated that removing the 2% withholding requirement from payments for seminars, conferences, conventions, schools, or similar programs would reduce the amount available to the program recipients. DOR officials stated that FY 2010 collections from entertainers were \$2.4 million and estimated these provisions could reduce that revenue by 25% or \$600,000.

Oversight assumes these provisions would eliminate the 2% withholding requirement for certain events but would not change the requirement for recipients to report and pay state income tax on their income from the event. Accordingly, Oversight will indicate no fiscal impact for the change in the withholding requirement.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources** (DNR) assumed a previous version (HCS for HB 470 and 429, LR 0869-02) of this proposal would exempt not-for-profit entities from collecting and remitting the nonresident athlete and entertainers tax. The Office of Administration estimates the amount of the nonresident athlete and entertainers tax collected, and ten percent of this amount is allocated annually to the DNR Historic Preservation Revolving Fund and transferred from General Revenue to the Historic Preservation Revolving Fund to be made available, subject to appropriation, for historic preservation efforts.

Funding from the Historic Preservation Revolving Fund is used by the department's State Historic Preservation Office (SHPO), in partnership with the National Park Service and local governments, for carrying out the mandates of the National Historic Preservation Act of 1966 in Missouri. The SHPO also receives federal funding from the National Park Service requiring a 40% state match, and the Historic Preservation Revolving Fund provides the majority of the match.

DNR officials deferred to the Department of Revenue for estimates of the amount of Nonresidents Athletes and Entertainers Tax to be allocated each year. DNR officials stated that transfers to the Historic Preservation Revolving Fund were \$1,126,000 in FY 2008, \$873,000 in FY 2009, \$738,413 in FY 2010, and \$0 in FY 2011. The FY 2010 ending balance in the Historic Preservation Revolving Fund was \$2,240,289.

Officials from the **Department of Economic Development, Missouri Arts Council** (MAC) stated that the actual fiscal impact of exempting nonprofits from withholding is difficult to determine as there is no way to ascertain what portion of current tax collections are from nonprofit entities. However, reducing withholding by any presenter could potentially reduce compliance with tax collection. This, obviously, would have a negative impact on the Missouri Arts Council since 60% of those revenues are intended for this agency. Furthermore, not requiring nonprofits to withhold the tax doesn't benefit them as it is not their funds that are being paid, but the performer or athlete's. The performer is still required to comply, but without information being provided to the Department of Revenue.

Reducing the portion of the Missouri Arts Council allocation from 60% to 30% would potentially reduce revenues by half. Further, this version also reduces funding for State Libraries and the Missouri Humanities Council and it eliminates funding for Historic Preservation and Public Broadcasting.

ASSUMPTION (continued)

Officials from the **City of Kansas City** assume this proposal would have no fiscal impact on their organization.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assumed that the exemption from withholding for not-for-profit entities in HB 470, LR 0869-01 would not result in additional costs or savings to their organization.

BAP officials stated that the proposal would exempt non-profit firms from remitting the withholding tax from a non-resident entertainers' income. However, the proposal does not exempt the entertainer from any subsequent income tax liability. Therefore, this proposal has no impact on General and Total State Revenues.

Oversight notes that most performances by an entertainer at an event for a not-for-profit organization would be fund-raising events for that organization and this proposal would not exempt that payment from withholding.

Oversight assumes that the circumstances under which a not-for-profit organization would pay an entertainer for a performance without realizing any benefit would be limited. Accordingly, Oversight assumes that any impact on Nonresident Athletes and Entertainers Tax collections would be minimal, and for fiscal note purposes Oversight will indicate no impact for this provision.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assumed in response to HB 429 LR 1074-01 that eliminating the sunset provisions for the program would not result in additional costs or savings to their organization.

BAP officials stated that this proposal would remove the expiration dates related to collection, calculations, and distribution of income taxes collected from non-resident athletes and entertainers. This proposal would have no impact on General and Total State Revenues.

Oversight notes that this provision would remove the current December 31, 2015 expiration date for the Nonresident Athletes and Entertainers Tax program. This expiration date is beyond the period covered in Oversight fiscal notes and, accordingly, Oversight will not indicate a fiscal impact for this provision.

ASSUMPTION (continued)

Provisions changing allocation of program funds.

Oversight notes that the allocation of program funds would change as shown in this table.

Entity	Current Allocation	Proposed Allocation	Difference
Regional Convention and Visitors Commission Fund	NA - Appropriated	25%	25%
Convention and Sports Complex Fund	0%	25%	25%
Historically Black Colleges and Universities	0%	5%	5%
Arts Council Trust Fund	60%	30%	(30%)
Humanities Council Trust Fund	10%	5%	(5%)
State Library Networking Fund	10%	5%	(5%)
Public Television Broadcasting Corporation Special Fund	10%	0%	(10%)
Historic Preservation Revolving Fund	10%	0%	(10%)

ASSUMPTION (continued)

Officials from the **Office of Administration, Division of Budget and Planning**, have provided an estimate of estimate of program revenues of approximately \$30 million per year.

Oversight assumes that the amount of revenues from the Nonresident Athletes and Entertainers Tax Program would vary significantly from year to year, and notes that current provisions base funding for program recipients on an annual estimate of program revenues by the Commissioner of Administration. Actual funding to the program recipients, however, is subject to appropriation. Oversight has reviewed the allocations and transfers of funds from the General Revenue Fund to the various program recipients for recent years and has noted that actual appropriations for program recipients were \$12.6 million in FY 2008, \$8.7 million in FY 2009, \$8.0 million in FY 2010, and \$0 in FY 2011.

ASSUMPTION (continued)

Oversight also assumes that the fiscal impact of these provisions would be a positive unknown to the Regional Convention and Visitors Commission Fund, the Convention and Sports Complex Fund, and the Historically Black colleges and Universities, and a negative unknown to the Arts Council Trust Fund, the Humanities Council Trust Fund, the State Library Networking Fund, the Public Television Broadcasting Corporation Special Fund, and the Historic Preservation Revolving Fund, but only if the appropriations and transfers were based on actual collections. Because these provisions would not require any specific appropriations or expenditures to be made for any of the funds involved, Oversight will indicate no fiscal impact for these provisions.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

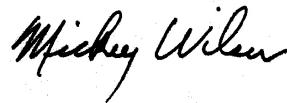
FISCAL DESCRIPTION

The proposed legislation appears to have no fiscal impact.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of the State Treasurer
Office of Administration
 Division of Budget and Planning
Department of Economic Development
 Missouri Arts Council
Department of Natural Resources
Department of Revenue
City of Kansas City



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Director
May 9, 2011